

## REMARKS

This Preliminary Amendment is concurrently filed with a Request for Continued Examination for the above-identified patent application. In the Final Office Action of 3/24/2006, the Examiner, rejected claims 2-3, 7, and 9-13 under 35 U.S.C. 102(b) as being anticipated by Smits (WO 00/55666, hereinafter Smits), and rejected claims 4-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Smits. In this response, no claims have been canceled or added. Accordingly, claims 2-13 will be pending after entry of this Preliminary Amendment.

### **I. Amendment to the Specification**

In this Amendment, Applicants have amended the specification to include the correct filing dates for U.S. Provisional Patent Application Nos. 60/425,049 and 60/425,051 which were both filed Nov. 8, 2002. The Applicants respectfully submit that the amendment to the specification is a correction of formal matters and that no new matter has been added.

### **II. Rejections Under 35 U.S.C. 102**

In the Office Action, the Examiner rejected claims 2-3, 7, and 9-13 as being anticipated by Smits. The Applicants have amended claim 2 and, as the rejection might be applied to the amended claim, respectfully traverse. Claim 2 as amended recites a MEMS structure on a substrate, the MEMS structure comprising:

an actuator body connected with a suspension system; and  
the suspension system connected with the substrate, the suspension system comprising:

a set of one or more flexures, each flexure connecting the actuator body with the substrate; and

a set of one or more torsional elements, wherein each torsional element connects a corresponding flexure with the actuator body, comprises the only physical connection between the corresponding flexure and the actuator body, and provides strain relief between the corresponding flexure and the actuator body, each torsional element having a length comprising the distance from the corresponding flexure to the actuator body, the length being greater than the width

of the torsional element, wherein the width of the torsional element is less than the width of the corresponding flexure.

[Emphasis added.]

Applicants submit that Smits does not disclose, teach, or even suggest each recited feature of claim 2. For example, Smits does not disclose, teach, or even suggest a torsional element that connects a corresponding flexure with the actuator body and comprises the only physical connection between the corresponding flexure and the actuator body, the torsional element having a length comprising the distance from the corresponding flexure to the actuator body, the length being greater than the width of the torsional element, wherein the width of the torsional element is less than the width of the corresponding flexure.

In the Office Action, the Examiner stated that the torsional element of claim 2 may correspond to a single leg of the structure 112 of Figure 12 of Smits. Amended claim 2, however, requires that a torsional element comprise the only physical connection between a corresponding flexure and the actuator body. As such, the single leg of the structure 112 of Smits can not correspond to the torsional element of amended claim 2 (since a second leg of the structure 112 also physically connects the corresponding flexure to the actuator body in Smits).

Therefore, the only element in Smits that can be argued to correspond to the torsional element of amended claim 2 would be the entire structure 112 of Smits. However, the entire structure 112 of Smits does not teach or suggest the other limitations of claim 2. For example, as shown in Figure 12 of Smits, the entire structure 112 has a width that is greater than the corresponding flexure 100 that it connects with the actuator body 108. Further, Smits does not teach or suggest that the length of the entire structure 112 (comprising the distance from the corresponding flexure to the actuator body) is greater than the width of the entire structure 112.

For the above reasons, amended claim 2 is believed to be in allowable form. Claims 3-7 and 9-13 are dependent upon claim 2 and are allowable for at least the same reasons as claim 2.

### III. Rejections Under 35 U.S.C. 103

In the Office Action, the Examiner rejected claims 4-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Smits. Claims 4-6 and 8 are dependent upon claim 2 and allowable for at least the same reasons as claim 2.


### CONCLUSION

Based on the foregoing remarks, Applicants believe that the rejections in the Final Office Action of 3/24/2006 are fully overcome and that the application is in condition for allowance. If the Examiner has any questions regarding the case, the Examiner is invited to contact Applicants' undersigned representative at the number given below.

Respectfully submitted,

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